

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

JOHNNIE CORLEY

:
:
:
:
:

Criminal No. 03-775

MEMORANDUM AND ORDER

Schiller, J.

May 10, 2004

Defendant Johnnie Corley is charged with various crimes related to an armed bank robbery in Norristown, Pennsylvania. Presently before the Court is Defendant's motion to suppress his oral and written confessions pursuant to Rule 5(a) of the Federal Rules of Criminal Procedure. For the reasons set out below, the Court denies Defendant's motion.

I. FACTUAL BACKGROUND

On September 17, 2003, at approximately 8:00 a.m., federal law enforcement agents attempted to arrest Defendant pursuant to a state-court bench warrant. (Suppression Hr'g Tr. at 19.) In the course of this arrest, Defendant had a physical altercation with an FBI agent while attempting to flee, and he was accordingly placed under federal arrest for assault on a law enforcement officer. (*Id.* at 40.) At approximately 11:45 a.m., Defendant was transported to Thomas Jefferson Hospital in Philadelphia to receive medical treatment for injuries sustained during the altercation. At approximately 3:30 p.m., after receiving several stitches and being treated with Motrin and Keflex (*id.* at 74-75), he was transported to the FBI office for interrogation concerning the Norristown bank robbery, regarding which he was a suspect. (*Id.* at 39.) At approximately 5:27 p.m., Defendant

signed a *Miranda* waiver and verbally confessed to the bank robbery. (*Id.* at 49.) When asked to write out his confession, Defendant stated that he was tired and requested to continue the following day. (*Id.* at 51.) The interrogation resumed at approximately 10:30 a.m. on September 18, at which time Defendant executed a written confession. (*Id.* at 59-60.) At approximately 1:30 p.m., Defendant made his initial appearance before a federal magistrate judge to be informed of his rights.

II. RULE 5(a) AND 18 U.S.C. § 3501(c)

Rule 5(a) of the Federal Rules of Criminal Procedure provides that “[a] person making an arrest within the United States must take the defendant without unnecessary delay before a magistrate judge.” FED. R. CRIM. P. 5(a). This Rule, along with the Supreme Court’s rulings in *McNabb v. United States*, 318 U.S. 332 (1943), *Mallory v. United States*, 354 U.S. 449 (1957), and their progeny, provides that a confession obtained from a defendant during an “unnecessary delay” preceding an initial court appearance may be inadmissible. *See McNabb*, 318 U.S. 332 (holding, prior to enactment of Rule 5(a), that confession obtained during excessive pre-appearance detention was inadmissible); *Mallory*, 354 U.S. 449 (interpreting Rule 5(a) to exclude statements obtained during eight-hour interrogation, which included lengthy polygraph test, prior to initial appearance). This general rule, however, has been statutorily circumscribed by 18 U.S.C. § 3501(c), which provides that “a confession made or given . . . while [the defendant] was under arrest or other detention in the custody of any . . . law-enforcement agency, shall not be inadmissible solely because of delay in bringing such person before a magistrate judge . . . if such confession was made or given by such person within six hours immediately following his arrest or other detention.” 18 U.S.C. § 3501(c). This subsection provides a “safe harbor” for law enforcement, setting a six-hour window

within which otherwise admissible confessions may not be excluded solely on the basis of the defendant not having been brought before a magistrate judge. *See United States v. McNaughton*, 848 F. Supp. 1195, 1204 (E.D. Pa. 1994) (noting that where there is no allegation of constitutional violations, admissibility of confessions is governed by § 3501). Therefore, in the absence of any constitutional violations, the confession must be admitted if § 3501 is satisfied. *Id.* If § 3501 is not satisfied, the relevant inquiry becomes whether a pre-appearance delay was “unnecessary” for purposes of Rule 5(a). The question of what constitutes an unnecessary delay is discussed below.

III. DISCUSSION

The issues presented by the instant case are whether Corley’s oral and written confessions, given nine and twenty-six hours respectively after his arrest, are within the time period prescribed by § 3501, and, if not, whether there was an “unnecessary delay” that could lead to the exclusion of either or both confessions. Regarding the oral confession, the Government argues that the time Corley spent in the hospital should be excluded from the calculation of time under § 3501.¹ Neither the parties nor the Court have located any Third Circuit or Eastern District of Pennsylvania precedent regarding this issue, so the Court looks to other federal jurisdictions.

Three circuit courts of appeals have held that time during which a defendant receives medical treatment is excluded from the calculation of time under § 3501. *See United States v. Aman*, 624 F.2d 911, 913 (9th Cir. 1980) (holding that post-arrest period spent by defendant in hospital for

¹ Incredibly, Defendant’s supplemental brief asserts that he did not receive any medical care that delayed the processing of his arrest. (*See* Def.’s Supp. Mot. to Suppress Post-Arrest Statements.) The Court notes that Defendant’s original brief regarding his motion to suppress sought to exclude his confessions *specifically* on the basis of his having received treatment in the hospital after his arrest. (*See* Def.’s Mot. in Limine to Suppress Post-Arrest Statements.)

observation regarding dangerous condition did not constitute unnecessary delay); *United States v. Isom*, 588 F.2d 858, 862-63 (2d Cir. 1978) (“The period during which appellant received medical treatment (at his request) . . . should not be counted in computing unnecessary delay.”); *United States v. Haskins*, 536 F.2d 775, 778 (8th Cir. 1976) (upholding district court’s denial of suppression motion where defendant spent much of eight-hour pre-appearance period in the hospital for injuries sustained during his arrest). Indeed, it could not have been Congress’s intent in enacting § 3501 to force law enforcement officers to choose between providing an arrestee with requested medical treatment or obtaining an admissible confession, and there does not appear to be any caselaw that would support such a holding. Thus, this Court holds, in accord with the above-cited cases, that the time period during which Defendant was hospitalized prior to his appearance before a magistrate judge is excluded from the six-hour window provided by § 3501. Accordingly, the period of three hours and forty-five minutes during which Defendant received medical care must be subtracted from the nine-and-one-half hours between his arrest and his oral confession. Because the resulting time period is under six hours, § 3501 applies, and therefore Defendant’s motion to suppress his oral confession under Rule 5(a) is denied.

Regarding Defendant’s written confession, the Government argues that the time Defendant spent resting in prison at his own request should be excluded from calculation under § 3501. Regardless of whether § 3501 applies, it seems clear that a break from interrogation requested by an arrestee who has already begun his confession does not constitute unreasonable delay under Rule 5(a). *See Isom*, 588 F.2d at 862-63 (“The period during which appellant received . . . overnight lodging [in jail] should not be counted in computing unnecessary delay.”); *Gov’t of Virgin Islands v. Gereau*, 502 F.2d 914, 923 (3d Cir. 1974) (holding that confession was admissible where

defendant began statement and then “indicated he was tired [and] was allowed to sleep overnight before questioning resumed”); *United States v. Gibbons*, 437 F. Supp. 650, 653 (E.D. Pa. 1977) (holding that confession was admissible where defendant commenced confession after two hours of interrogation but was not brought before magistrate judge until thirty-six hours after arrest); *see also United States v. Manuel*, 706 F.2d 908, 914 (9th Cir. 1983) (“[P]olice provided Manuel with a meal and with sleeping accommodations so that he could regain sobriety. Although we do not sanction delay of any kind in bringing an accused person before a magistrate, delay engendered by such humanitarian motives can hardly be deemed unreasonable per se.”). Thus, the period between Defendant’s arrest and his written confession was not “unnecessary” for the purposes of Rule 5(a). Accordingly, Defendant’s motion to suppress his written confession under Rule 5(a) is denied.²

IV. CONCLUSION

For the reasons set out above, Defendant’s motion to suppress his oral and written confessions is denied. An appropriate Order follows.

² Defendant originally moved to suppress his confessions on four grounds unrelated to Rule 5(a) and did not raise the instant issue until the suppression hearing. After the hearing, the Court ordered the parties to file supplemental briefs “regarding the admissibility of a confession obtained from a prisoner while he was under arrest for a different offense for which he may not have been timely arraigned.” (Order of Apr. 13, 2004.) Because the Court finds, however, that the instant confessions are admissible under § 3501 and Rule 5(a), the Court need not resolve the more complex issue of whether Rule 5(a) might be used to exclude a confession to a crime for which the defendant was not under arrest.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

v.

JOHNNIE CORLEY

:
:
:
:
:

Criminal No. 03-775

ORDER

AND NOW, this 10th day of **May 2004**, upon consideration of Defendant's Motion in Limine to Suppress Post-Arrest Statements (Document No. 15), Defendant's Supplemental Memorandum of Law (Document No. 28), and the responses thereto, it is hereby **ORDERED** that:

Defendant's motion is **DENIED**.

BY THE COURT:

Berle M. Schiller, J.